IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.474 OF 2007
IN
SUMMONS FOR JUDGEMENT NO.575 OF 2006
IN
SUM.SUIT NO.9161 OF 2006

Pushpa Suryank Pandule .. Appellant
V/s
Sulochana Rajaram Hindalekar .. Respondent

Ms.Deepti Wadkar for the Appellant.
Mr.M.D.Pokale for Respondent.

CORAM : DR.S.RADHAKRISHNAN, &
ANOOP V.MOHTA, JJ.

DATE : 20th December, 2007.

P.C.:

1. Heard the learned Counsel for the parties. Appeal is admitted. The learned Counsel for the Respondent waives service. By consent, the Appeal is taken up for final hearing.

2. By this Appeal, the Appellant is challenging an order dated 7th February, 2007 whereby the learned Single Judge had made the Summons for Judgement absolute thereby passing the decree. It appears that the Appellant had actually affirmed the affidavit in reply dated 6.2.2007. It appears that when the matter was on board on 7.2.2007, due to inadvertence the original affidavit in reply was not in the brief and could not be tendered, and therefore an application was made on behalf of the Appellant-Defendant that the matter be kept next date. However, it appears that the learned

Single Judge did not adjourn the matter and the Summons for Judgment was made absolute. Only on this limited ground the aforesaid order of the learned Single Judge dated 7th February, 2007 is quashed and set aside so as to enable the Appellant-original Defendant to place the affidavit in reply on record and to seek leave to defend.

3. The affidavit in reply dated 6.2.2007 is taken on record and the same is directed to be placed in the original Summons for Judgement No.575 of 2006. The learned Counsel for the Respondent states that within a period of four weeks from today he will be filing the affidavit in rejoinder to the same. It is made clear that all the contentions of the Respondent are kept expressly open, and the learned Single Judge will decide the aforesaid Summons for Judgement in accordance with the law, strictly on its own merits.

4. Appeal stands disposed of.

(ANOOP V.MOHTA, J.) **(DR.S.RADHAKRISHNAN, J.)**